

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING

DATE OF MEETING: Tuesday, **September 12, 2017**
TIME OF MEETING: 4:00 p.m.
PLACE OF MEETING: Commission Chambers, First Floor, Muskegon City Hall

AGENDA

- I. Roll Call
- II. Approval of Minutes of the Regular Meeting of March 14, 2017.
- III. **PUBLIC HEARINGS**
 - A. Hearing; Case 2017-03: Request for a variance from Section 404 of the Zoning Ordinance to allow an addition to the home with a rear lot setback less than 30 feet at 1603 Nelson St, by Nils E Bodman.
 - B. Hearing; Case 2017-04: Request for a variance from Section 404 of the Zoning Ordinance to allow an addition to the home with a rear lot setback less than 30 feet at 1545 Edgewater St, by Randall S Norden.
- IV. New Business
- V. Old Business
- VI. Adjourn

AMERICAN DISABILITY ACT POLICY FOR ACCESS TO OPEN MEETING OF THE
CITY COMMISSION AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

The City of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting, upon twenty-four hour notice to the City of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the City of Muskegon by writing or calling the following:

Ann Marie Cummings, City Clerk
933 Terrace Street
Muskegon, MI 49440
(231) 724-6705

TTY/TDD: Dial 7-1-1 and request that a representative dial 231-724-6705

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

March 14, 2017

Chairman R. Hilt called the meeting to order at 4:02 p.m. and roll was taken.

MEMBERS PRESENT: R. Hilt, E. Fordham, S. Warmington, T. Halterman

MEMBERS ABSENT: W. German, excused; B. Larson, excused

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: T. Frens, 233 Irwin Ave.

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of February 14, 2017 be approved was made by S. Warmington, supported by E. Fordham and unanimously approved.

PUBLIC HEARING

Hearing; Case 2017-02: Request for a variance from Section 2311 of the zoning ordinance to allow construction of a garage on a lot without a principal structure in an R-1, Single-Family Residential District at 221 Irwin Avenue, by Thomas Frens. M. Franzak presented the staff report. The applicant owns the home at 233 Irwin and the vacant lot at 221 Irwin Avenue; the two lots are separated by an alley. He would like to build a garage on his property, but further development on the lot with the house is limited by the sloped terrain and a large tree in the back yard. Mr. Frens would also like a garage larger than what would be allowed on the lot with the house. The vacant lot across the alley at 221 Irwin is a buildable lot but has no principal structure (house) on it. The zoning ordinance does not allow accessory structures (garages) to be built on lots without a principal structure. Normally, the lots would be combined to make one buildable lot. However, these lots cannot be combined because of the alley that separates them. In order to legally combine the lots, the alley would have to be vacated and the block would have to be replatted. That would not be practical and could potentially limit the alley use for other homes that rely on it. The applicant is seeking a variance to construct the garage at 221 Irwin Avenue because that is the simplest way to remedy the problem. The vacant lot at 221 Irwin measures 61' x 130' and is zoned R-1, Single Family Residential; the surrounding properties have a mix of business and residential uses. In fact, the home at 233 Irwin is actually zoned B-2, Convenience and Comparison Business District, and the home at 211 Irwin is zoned B-1, Limited Business District. Notification letters were sent to properties within 300 feet of the subject property. The McLaughlin Neighborhood Association wrote a letter in support of the request. B. Young of 1468 Terrace also expressed support for the request. Board members were provided with a list of the applicant's responses to the variance standards. Staff agreed that this was the best way to construct a garage for this property. Vacating the alley would be detrimental to the rest of the block.

E. Fordham asked what size garage would be allowed. M. Franzak stated that the garage could not take up more than 50% of the total lot size, had to be located behind the front building line of the house on the adjacent property, and had to meet setbacks. S. Warmington asked if the lots could be combined, with an easement allowing the alley to go through. M. Franzak stated that the alley was already an easement. R. Hilt observed that there were 4 or 5 garages that opened onto that alley, and vacating it would cause a hardship for those residents. T. Frens stated that he would use quality materials in the garage construction, and it would match the house, as he wanted it to look cohesive.

A motion to close the public hearing was made by R. Hilt, supported by S. Warmington and unanimously approved.

R. Hilt asked why there were so many different zoning classifications in this area. M. Franzak stated that it was an older neighborhood from a time when small businesses were more prominent in neighborhoods. This street had several small businesses located on it. Board members discussed the review standards, and the following findings of fact were offered: 1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district, 2) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity; 3) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest, 4) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property or by any previous owner, 5) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and 6) That the requested variance is the minimum action required to eliminate the difficulty.

A motion that the findings of fact be accepted and that the variance request to allow the construction of a garage at 221 Irwin Avenue be approved, subject to the conditions that: a) The garage be set back at least as far back from the road as the home at 233 Irwin Avenue, b) The garage meets the other development standards for accessory structures in Section 2311 of the zoning ordinance, and c) any necessary permits are obtained, was made by S. Warmington, supported by E. Fordham and unanimously approved, with R. Hilt, E. Fordham, S. Warmington, and T. Halterman voting aye.

OLD BUSINESS

None

OTHER

None.

There being no further business, the meeting was adjourned at 4:44 p.m.

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
STAFF REPORT
September 12, 2017

Hearing; Case 2017-03: Request for a variance from Section 404 of the zoning ordinance to allow an addition to the home with a rear lot setback less than 30 feet at 1603 Nelson St, by Nils E Bodman.

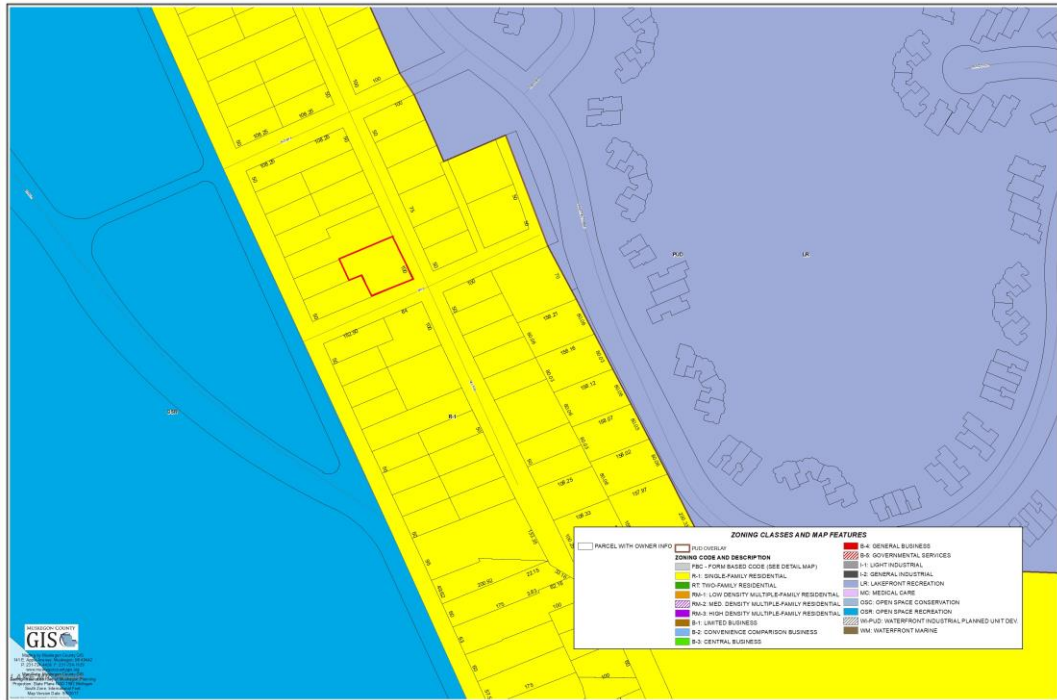
BACKGROUND

1. The property owner would like to build a new garage that would be attached to both the house and the current detached garage, which would combine all of the structures.
2. The current detached garage sits 3'6" from the rear lot line, which meets the ordinance for accessory structure setbacks. However, connecting it to the house would make it part of the principal structure, which requires a 30-foot rear setback. The odd shape of the lot prevents this addition from meeting the zoning ordinance requirements for a 30-foot rear yard setback. It would meet the 30-foot rear setback if it were put on the northern side of the lot, but this is not feasible the way the lot has been developed.
3. Please see the enclosed site plan for reference of where the garage placement is proposed.
4. Notification letters were sent out to properties within 300 feet of this property. At the time of this writing, staff has not received any comments from the public.
5. Please see the enclosed answers to the variance request questionnaire.

1603 Nelson St – Area where the proposed new garage addition would be placed



Zoning Map



Aerial Map



VARIANCE REVIEW STANDARDS

Questions to consider when reviewing a variance request:

- a. Are there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district?
- b. Is the dimensional variance necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity?
- c. Will the authorizing of such dimensional variance be of substantial detriment to adjacent properties?
- d. Is the alleged difficulty caused by the ordinance and not by any person presently having an interest in the property, or by any previous owner?
- e. Is the alleged difficulty founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner?
- f. Is the requested variance the minimum action required to eliminate the difficulty?

DETERMINATION:

The following motion is offered for consideration:

I move that the variance request to allow a building addition with a 3'6" rear setback (only applying to the portion of the property extending 30 feet north from Ohio St) at 1603 Nelson St be (approved/denied), based on the following review standards listed below (found in Section 2502 of the Zoning Ordinance) and subject to the following conditions (if any):

- a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district.
- b. That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.
- c. That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest.
- d. That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner.
- e. That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.
- f. That the requested variance is the minimum action required to eliminate the difficulty.

City of Muskegon Planning & Zoning Application

Planning Commission*	Zoning Board of Appeals* (2-page application)
<input type="checkbox"/> Amendment to Ordinance (\$500)	<input checked="" type="checkbox"/> Variance (\$200 Residential/ \$400 Commercial/Industrial)
<input type="checkbox"/> Rezoning (\$500)	<input type="checkbox"/> Ordinance Interpretation (\$200 Res./ \$400 Com./Ind.)
<input type="checkbox"/> Special Use Permit (\$500)	<input type="checkbox"/> Zoning Appeal (\$200 Residential or \$400 Com./Ind.)
<input type="checkbox"/> PUD - Preliminary (\$500)	<input type="checkbox"/> Special Meeting (\$400 additional)
<input type="checkbox"/> PUD - Final (\$500)	Site Plan Review*
<input type="checkbox"/> PUD - Amendment (\$500)	<input type="checkbox"/> Staff Review - Minor (\$200)
<input type="checkbox"/> Vacation - Alley or Street (\$500)**	<input type="checkbox"/> Staff Review - Major (\$400)
<input type="checkbox"/> Special Meeting (\$500 additional)	<input type="checkbox"/> Planning Comm. Review (\$500)

*Application fees are non-refundable

**Alley/Street vacations require 90 days advance notice

Address/Location of Subject Property: 1603 NELSON ST

Parcel # of Subject Property: _____

Current Zoning & Use of Subject Property: RESIDENTIAL

Applicant Information:

Name: NILS E. BODMAN

Organization: _____

Address: 1603 NELSON STCity/State/Zip: MUSKEGON MI 49441Phone: 517-930-1525

Alt. Phone: _____

Fax: _____

E-mail: edbodman3@gmail.com

I hereby attest that all information on this application is, to the best of my knowledge, true and accurate.

Signature: N.E. BodmanDate: 8-17-17

I hereby grant permission for members of the City of Muskegon (Planning Commission / Zoning Board of Appeals / City Commission / Staff) to enter the property described below (or as described in the attached) for the purpose of gathering information related to this application. (Note to applicant: This is optional and will not affect any decision on your application)

Signature of Owner: N.E. BodmanDate: 8-17-17Applicant is the: ☒ Owner☐ Lessee☐ Contractor/Architect☐ Other: _____

If the applicant is not the owner of the property, complete the following:

Owner's Name: _____

Address: _____

City/State/Zip: _____

Phone: _____

Signature: _____

Proposed Use: _____

Proposed Zoning: _____

Explanation of Request: garage addition

If application is for a Special Use Permit or Planning Commission Site Plan Review, please attach sixteen (16) copies of a complete site plan. If application is for a Planned Unit Development, please attach nineteen (19) copies of a complete site plan. If application is for a Staff Site Plan Review, please attach six (6) copies of a complete site plan.

TO BE COMPLETED BY CITY:

Date Received: 8-21-17Received by: DRPaid by: Cash ☐Credit ☐Check ☒ check number: _____Meeting date (if applicable): 9-12-17ZBA ☒ PC ☐

City of Muskegon Planning & Zoning Application

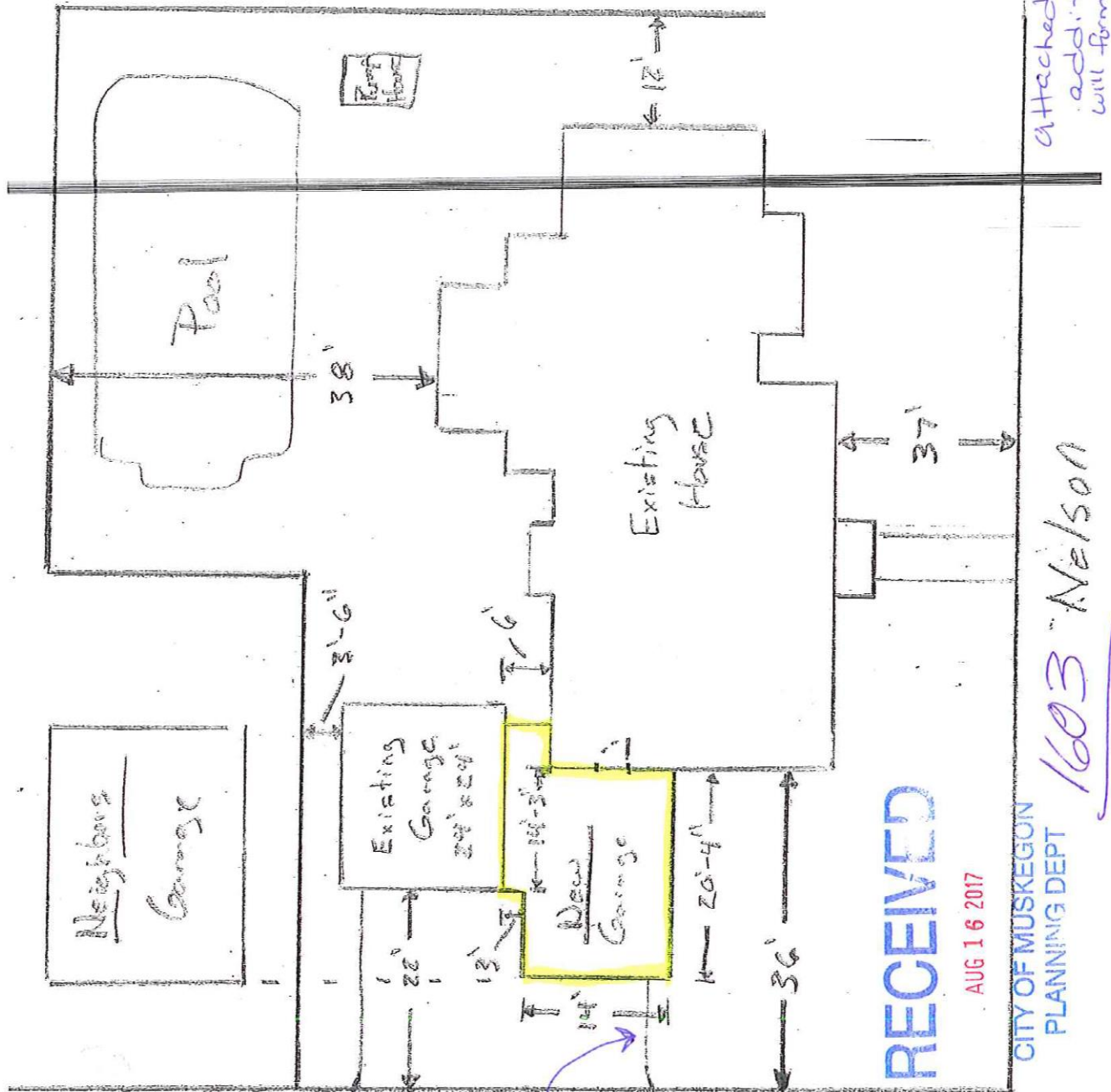
Page 2a – Non-Use Variances

Please provide an answer to the following questions:

1. Why are there "exceptional or extraordinary circumstances applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district"? (i.e., Why is your property unique compared to others in the neighborhood?)
Because its a corner lot the current set back requirements to attach the garage to the house does not meet code.
2. Why is a variance "necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity"? (i.e., What property rights do your neighbors enjoy that you can't because of the nature of your property?)
A garage attached to the house. Zoning ordinance for corner lots creates two front yards, which limits development of the lot
3. How will the authorizing of a variance "not be of substantial detriment to adjacent property and not materially impair the purposes of the City's zoning ordinance or the public interest"? (i.e., Will granting a variance to you negatively affect your neighbors or the public in general?)
no negative impact to neighbors
4. Explain why the alleged difficulty is "caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner": (i.e., Who/what is the cause of the difficulty?)
Zoning code rules when the house was built vs. current construction codes
5. The alleged difficulty is "not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner" because: (i.e., Do you have reasons, other than financial gain, for asking for the variance?)
yes, so that the house can be entered from the garage during heavy wind days, rather than outdoors
6. Is the requested variance "the minimum action required to eliminate the difficulty"? (i.e., Could you get by with less of a variance from the ordinance requirement(s)?)
it does not appear so

Aaron Parker 231-798-3541 contractor

Nils Bodman 517-930-1525



attached garage addition (the addition will form an attached gar.)

RECEIVED

AUG 16 2017

CITY OF MUSKEGON
PLANNING DEPT

1603 Nelson

Hearing; Case 2017-04: Request for a variance from Section 404 of the zoning ordinance to allow an addition to the home with a rear lot setback of 19 feet at 1545 Edgewater St, by Randall S Norden.

BACKGROUND

1. The property owner would like to build a two-story addition to the rear of the principal structure. The proposed addition would leave only a 19-foot rear setback, instead of the required 30-foot minimum rear setback.
2. The current home is setback about 50 feet from the front property line, but only a 15-foot front setback is required. It appears that there are other options to place an addition to the home.
3. Please see the enclosed site plan for reference of where the garage placement is proposed.
4. Notification letters were sent out to properties within 300 feet of this property. At the time of this writing, staff has received one comment form the neighbors at 3205 Brighton Ave who are in favor of the request. Staff has also talked to another neighbor who is opposed to the request and plans on attending the meeting.
5. Please see the enclosed answers to the variance request questionnaire.

1545 Edgewater St



Back Yard



Zoning Map

Aerial Map



VARIANCE REVIEW STANDARDS

Questions to consider when reviewing a variance request:

- a. Are there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district?
- b. Is the dimensional variance necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity?
- c. Will the authorizing of such dimensional variance be of substantial detriment to adjacent properties?
- d. Is the alleged difficulty caused by the ordinance and not by any person presently having an interest in the property, or by any previous owner?
- e. Is the alleged difficulty founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner?
- f. Is the requested variance the minimum action required to eliminate the difficulty?

DETERMINATION:

The following motion is offered for consideration:

I move that the variance request to allow an addition to the home with a rear lot setback of 19 feet at 1545 Edgewater St be (approved/denied), based on the following review standards listed below (found in Section 2502 of the Zoning Ordinance) and subject to the following conditions (if any):

- a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district.
- b. That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.
- c. That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest.
- d. That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner.
- e. That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.
- f. That the requested variance is the minimum action required to eliminate the difficulty.

City of Muskegon Planning & Zoning Application

Planning Commission*	Zoning Board of Appeals* (2-page application)
<input type="checkbox"/> Amendment to Ordinance (\$500)	<input checked="" type="checkbox"/> Variance (\$200 Residential/ \$400 Commercial/Industrial)
<input type="checkbox"/> Rezoning (\$500)	<input type="checkbox"/> Ordinance Interpretation (\$200 Res./ \$400 Com./Ind.)
<input type="checkbox"/> Special Use Permit (\$500)	<input type="checkbox"/> Zoning Appeal (\$200 Residential or \$400 Com./Ind.)
<input type="checkbox"/> PUD - Preliminary (\$500)	<input type="checkbox"/> Special Meeting (\$400 additional)
<input type="checkbox"/> PUD - Final (\$500)	Site Plan Review*
<input type="checkbox"/> PUD - Amendment (\$500)	<input type="checkbox"/> Staff Review - Minor (\$200)
<input type="checkbox"/> Vacation - Alley or Street (\$500)**	<input type="checkbox"/> Staff Review - Major (\$400)
<input type="checkbox"/> Special Meeting (\$500 additional)	<input type="checkbox"/> Planning Comm. Review (\$500)

*Application fees are non-refundable

**Alley/Street vacations require 90 days advance notice

Address/Location of Subject Property: 1545 Edgewater Street Muskegon MI
 Parcel # of Subject Property: 61-24-270-000-0003-00 49441
 Current Zoning & Use of Subject Property: R-1

Applicant Information:

Name: Randall S. Norden Organization _____
 Address: 1545 Edgewater Street City/State/Zip: Muskegon, MI 49441
 Phone: 231-557-4398 Alt. Phone: 231-557-9414 Fax: Shawn Taylor
 E-mail: Randy.norden@raymondjames.com Fiac

I hereby attest that all information on this application is, to the best of my knowledge, true and accurate.

Signature: [Signature]Date: 8/22/17

I hereby grant permission for members of the City of Muskegon (Planning Commission / Zoning Board of Appeals / City Commission / Staff) to enter the property described below (or as described in the attached) for the purpose of gathering information related to this application. (Note to applicant: This is optional and will not affect any decision on your application)

Signature of Owner: _____

Date: _____

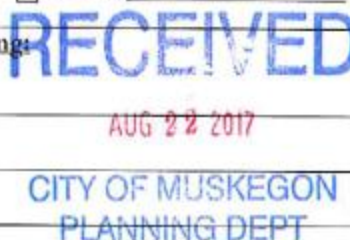
Applicant is the: ☒ Owner ☐ Lessee ☐ Contractor/Architect ☐ Other: _____

If the applicant is not the owner of the property, complete the following:

Owner's Name: _____

Address: _____ City/State/Zip: _____

Phone: _____ Signature: _____

Proposed Use: ResidentialProposed Zoning: R-1

Explanation of Request: A proposed addition off the back of current house for a total of 12 feet across back of house.

If application is for a Special Use Permit or Planning Commission Site Plan Review, please attach sixteen (16) copies of a complete site plan. If application is for a Planned Unit Development, please attach nineteen (19) copies of a complete site plan. If application is for a Staff Site Plan Review, please attach six (6) copies of a complete site plan.

TO BE COMPLETED BY CITY:

Date Received: 8-22-17 Received by: DRPaid by: Cash ☐ Credit ☐ Check ☒ check number: _____Meeting date (if applicable): 9-12-17 ZBA ☒ PC ☐

Note: Information contained in this application, as well as supporting documentation, may be subject to review by the public if a Freedom of Information Act Request is filed.

→ Completed structure would leave 19 feet to rear lot line

City of Muskegon Planning & Zoning Application
Page 2a – Non-Use Variances

4/US

Please provide an answer to the following questions:

1. Why are there "exceptional or extraordinary circumstances applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district"? (i.e., Why is your property unique compared to others in the neighborhood?)

My property is on the lake, it is only 52 feet wide and if I proposed an addition in the front, the neighbors view would be obstructed as well as adding another story.

2. Why is a variance "necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity"? (i.e., What property rights do your neighbors enjoy that you can't because of the nature of your property?)

Some neighbors have or could have additional bedrooms and storage.

3. How will the authorizing of a variance "not be of substantial detriment to adjacent property and not materially impair the purposes of the City's zoning ordinance or the public interest"? (i.e., Will granting a variance to you negatively affect your neighbors or the public in general?)

The requested variance will not impact our neighbors or environment. The proposed addition will not obstruct any views or disrupt the hill behind the house. I have spoken to all immediate neighbors with no opposition.

4. Explain why the alleged difficulty is "caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner": (i.e., Who/what is the cause of the difficulty?)

It took me 10 years to find this property and I can not find a similar property on Muskegon Lake. Our new family will require four bedrooms. The current structure and lot size is not conducive to adding a fourth bedroom.

5. The alleged difficulty is "not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner" because: (i.e., Do you have reasons, other than financial gain, for asking for the variance?)

Yes - I am getting married in November 2017 and need more room for a blended family.

6. Is the requested variance "the minimum action required to eliminate the difficulty"? (i.e., Could you get by with less of a variance from the ordinance requirement(s)?)

No - after extensive consultation with a builder and a designer - this proposed plan is the only way to accommodate our new family.

PROJECT NO.: 10027

DATE: 5-18-2010

FOR: MR. MICHEAL J. DORATO
1545 EDGEWATER STREET
MUSKEGON, MI

